

Thomas-Jensen Affirmation

Exhibit # 91

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK; et al.,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States; et al.,

Defendants.

C.A. No. 1:25-cv-00039-JJM-PAS

DECLARATION OF DREW ROYBAL-CHAVEZ

I, Drew Roybal-Chavez, declare as follows:

1. I am a resident of the State of New Mexico. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the New Mexico Office of Broadband Access & Expansion as Administrative Services Division Bureau Chief.

3. The Office of Broadband Access and Expansion (“OBAE”) is responsible for achieving enterprising, affordable broadband solutions that will elevate the quality of life for everyone in the State.

4. As ASD Bureau Chief I am responsible for overall financial and budgetary management of state and federal funds awarded to the OBAE.

5. OBAE has a current operating budget of \$981,192,799.84. This includes our operating budget of \$3,308,700 which is awarded with state funds, \$20,048,000 of capital

infrastructure funds, and grant programs totaling \$958,106,099.84. These grant funds are funded as follows:

- a. American Rescue Plan Act (APRA): \$123,066,812 of federal funds administered by the Department of Treasury;
- b. Broadband Equity, Access & Deployment (BEAD): \$675,372,312 of federal funds administered by the National Telecommunication and Information Administration (NTIA);
- c. Digital Equity Planning and Capacity Grant (PINON): \$8,673,975.84 of federal funds administered by the NTIA;
- d. Congressional Funding for Workforce Development: \$1,993,000 of federal funds administered by the Department of Labor; and
- e. Connect New Mexico: \$100,000,000 of state funds; and
- f. Broadband Strategic Planning: \$25,000,000 of state funds.

6. The federal funds are used to implement OBAE's goal to ensure that all New Mexicans have the opportunity to adopt the internet at home, in an office, in a community institution, or through a mobile device. Specifically:

- a. APRA: The ARPA funds provided to New Mexico foster socioeconomic progress by providing infrastructure grants for broadband deployment to unserved and underserved communities across New Mexico, including those impacted by wildfires and floods.
- b. BEAD: BEAD funding is being used to expand high-speed internet access through planning and infrastructure deployment across New Mexico unserved and underserved communities.

- c. PINON: According to the U.S. Census Bureau, an estimated 19.5% of New Mexico residents report not using the internet. Key adoption challenges include lack of device ownership, affordability, and lack of digital skills. The PINON grant will support programs that bridge this digital divide.
- d. Congressional Funding for Workforce Development: These funds are being utilized to procure a mobile training/education trailer, which will enable OBAE and partner schools to provide the necessary hands-on technical training in fiber splicing throughout the state.

7. The Federal Communications Commissions (FCC) has identified 88,258 broadband serviceable locations in New Mexico that are currently unserved, and an additional 41,171 locations that qualify as underserved (meaning they lack access to wireline or licensed fixed wireless networks offering at least 100/20 Mbps). Broadband connectivity is an essential component to access to telehealth, education, and employment opportunities, particularly in a large mostly rural state.

8. OBAE's budget for this year has relied on both the state and federal funds outlined in paragraph 5. OBAE has made plans, opened applications for federal grant funding, executed grant awards and contracts, and allocated funding for staffing based on the anticipated receipt of Federal Funding allocated to our agency in the ARPA, BEAD, PINON, and Workforce Development grants.

9. Any pause in our federal funding would bring about an immediate work stoppage on pending infrastructure projects, leading to loss of employment for those working on the projects, and delaying unserved communities from receiving broadband connectivity.

10. Two federal grant programs, specifically BEAD and PINON, are currently in their application phase. The uncertainty surrounding reimbursements is having a chilling effect on applicants for these programs. Smaller entities who depend on timely reimbursements throughout these multi-year programs may be discouraged from applying due to financial uncertainties.

11. In the next several fiscal years OBAE is scheduled to receive disbursements of approximately \$800 million. ARPA funds have already been obligated, while BEAD and PINON funds have been appropriated, and are currently open for applications.

12. OBAE submitted a reimbursement of \$1,800,000 against our obligated ARPA funds on January 28, 2025, which was received on February 3, 2025. OBAE will be submitting additional reimbursements in February of 2025.

13. OBAE has received conflicting information regarding the impact of the Executive Order and OMB Memo on our programs. It is unclear how reimbursements may or may not be impacted.

14. When the State of New Mexico is acting as a pass-through entity for federal funds, it is our practice to pay the subgrantee using State funds, and then seek reimbursement from the appropriate federal entity. OBAE has not yet received reimbursements from the latest submission.


15. The substantial amounts covered in the BEAD and ARPA infrastructure grant programs will preclude the State of New Mexico from floating these federal programs. The State depends upon prompt reimbursement upon proper submission. Prolonged delays in federal reimbursements for obligated funds may impact the State's ability to promptly pay subgrantees. may impact the State's ability to promptly pay subgrantees.

16. We continue to be concerned that the funding will again be delayed or denied because of the confusing and contradictory information received in the Executive Orders, OMB Memo, and from the administering agencies OBAE grants.

17. If the federal funding is again paused, blocked, denied or delayed suddenly, it may lead to a work stoppage on multi-year infrastructure projects, litigation from grant awardees, and cause direct harm to individual households relying upon the deployment of broadband in their communities to access healthcare, education, and employment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 4, 2025, in Santa Fe, New Mexico.

Signed by:

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Drew Roybal-Chavez
2/4/2025